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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,917	02/14/2002	Thomas Thoroe Scherb	P21821	6255

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EXAMINER

HASTINGS, KAREN M

ART UNIT	PAPER NUMBER
1731	<i>b</i>

DATE MAILED: 08/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

073917

Applicant(s)

SCHERB et al

Examiner

HASTINGS

Group Art Unit

1731

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 6/02.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-11 is/are pending in the application.

Of the above claim(s) 1-8 is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 9-11 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Other _____

Office Action Summary

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Applicant's election with traverse of Group III in Paper No. 5 is acknowledged. The traversal is on the ground(s) that an appropriate explanation of the existence of a serious burden was not made by the Examiner. This is not found persuasive because the Examiner did indeed advance an appropriate explanation as to the existence of a serious burden on pages 3 and 4 of the Office action, Paper No. 3, mailed May 15, 2002.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103(a).

Claims 9 and 10 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Laapotti '820.

See Figure 1 and Figure 1A - note Laapotti '820 at Figure 1A teaches that the time duration may be on the order of 20 milliseconds which clearly is encompassed by the recited time duration of at least 3.5 milliseconds, and column 12 lines 35-40 which describe that the pressure is preferably between .2 to 1 MPa which clearly is encompassed by the recited \leq 2 Mpa.

Although not needed to reject these claims, column 12 lines 35-40 also teach the extended nip press shoe may be 100 to 700 mm long which clearly is ~~greater than 80 mm~~ the length taught in the specification as appropriate to result in a time duration greater than 3.5ms.

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With respect to claim 10, Laapotti at column 2 lines 40-45 specifically discusses using "thin paper". Furthermore, column 2 lines 9+ of Laapotti '820 discuss U.S. Patent 4,324,613 which clearly is drawn to hot pressing of a tissue web. Thus one of ordinary skill in the art reviewing Laapotti '820 would immediately envision that the hot pressing method of the paper making machine of Laapotti '820 would have been used for thin paper such as tissue since Laapotti '820 refers to prior art in the background of his invention that is being used to make tissue paper webs.

Claim 10 is also rejected under 35 U.S.C. § 103(a) as being unpatentable over Laapotti '820.

Laapotti '820 is applied as above. It is the Examiner's position that it is inherent that Laapotti '820 would have been used to form a tissue paper or a hygienic paper web as claimed; but in any event, it would have been prima facie obvious to one of ordinary skill in the art to use the method of Laapotti '820 to make any paper web including those recited in claim 10. This is especially prima facie obvious since Laapotti specifically discusses in the background of his art thin paper and tissue webs; thus clearly one of ordinary skill in the art would be motivated to use Laapotti '820's method to make a thin paper such as a tissue web.

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Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laapotti '820 as applied to claim 9 above, and further in view of Ever et al.

Ever et al. is cited to exemplify the known use of curled or kinked fibers and the advantages thereof. Thus it would have been prima facie obvious to include curled fibers for their known advantageous effects on a paper web into the process of Laapotti '820 in order to obtain these known advantages. Note for example column 12 lines 16-60 describe advantages of paper webs including bulked fibers and referred to suitability for paper towel, tissue, napkin products and other paper board products.

Claims 9 and 10 are also rejected under 35 U.S.C. § 103(a)
as being unpatentable over Schiel '429. as *Mend v. Legg* '820

Schiel '429 teaches making a tissue paper. At the press nip at 42, Schiel teaches that the maximum pressure may be 1.5 MPa. Although Schiel '429 does not explicitly say the time duration is at least 3.5 milliseconds as claimed, Schiel '429 does teach that the length of the press shoe is over 80 mm long which is comparable to the shoe length taught by applicants to be necessary to achieve a time duration of at least 3.5 milliseconds. The speed of a papermaking machine is a well known result effective variable. Thus it would have been prima facie obvious to optimize the speed of the machine and achieve a time

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duration of more than 3.5 seconds in this press nip of Schiel '429.

But in any event, as even necessary, Laapotti '820 teaches that a time duration on the order of 20 milliseconds is achieved at a known paper making speed for a press nip with a shoe over 80 mm long etc. Thus this clearly provides one of ordinary skill in the art with the motivation that one would have easily achieved a time duration of at least 3.5 milliseconds in the Schiel '429 press nip at 42.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schiel '429 with Laapotti '820 as applied to claim 9 above, and further in view of Ever et al.

Ever et al. is cited to exemplify the known use of curled or kinked fibers and the advantages thereof. Thus it would have been prima facie obvious to include curled fibers for their known advantageous effects on a paper web into the process of Schiel '429 (modified as necessary by Laapotti's teaching of an appropriate dwell time in the press shoe nip) in order to obtain these known advantages. Note for example column 12 lines 16-60 describe advantages of paper webs including bulked fibers and referred to suitability for paper towel, tissue, napkin products and other paper board products.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Hastings whose telephone number is (703) 308-0470. The examiner can normally be reached on Monday through Thursday from 6:30 A.M. to 5 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on (703) 308-1164. The fax phone number for this Group is (703) 305-7115.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.


Karen M. Hastings
Senior Primary Examiner
Art Unit 1731

KMH/cdc
July 26, 2002

